

## Fishery Conservation and Management

§ 679.92

(xii) Can an Amendment 80 QS permit, Amendment 80 LLP license, or Amendment 80 vessel be assigned to an Amendment 80 cooperative and the Amendment 80 limited access fishery?.	No, an Amendment 80 QS permit, Amendment 80 LLP license, or Amendment 80 vessel assigned to an Amendment 80 cooperative may not be assigned to the Amendment 80 limited access fishery for that calendar year. Prior to the 2014 fishing year, a person holding multiple Amendment 80 QS permits, Amendment 80 LLP licenses, or owning multiple Amendment 80 vessels is not required to assign all Amendment 80 QS permits, Amendment 80 LLP licenses, or Amendment 80 vessels to the same Amendment 80 cooperative or the Amendment 80 limited access fishery. Starting with the 2014 fishing year and thereafter, a person holding multiple Amendment 80 QS permits, Amendment 80 LLP licenses, or owning multiple Amendment 80 vessels must assign all Amendment 80 QS permits, Amendment 80 LLP licenses, or Amendment 80 vessels to either one or more Amendment 80 cooperatives, or the Amendment 80 limited access fishery.
(xiii) Which members may catch the Amendment 80 cooperative's CQ?	Use of a cooperative's CQ permit is determined by the Amendment 80 cooperative contract signed by its members. Any violations of this contract by a cooperative member may be subject to civil claims by other members of the Amendment 80 cooperative.
(xiv) Does an Amendment 80 cooperative need a membership agreement or contract?	Yes, an Amendment 80 cooperative must have a membership agreement or contract that specifies how the Amendment 80 cooperative intends to catch its CQ. A copy of this agreement or contract must be submitted to NMFS with the application for CQ.
(xv) What happens if the Amendment 80 cooperative membership agreement or contract is modified during the fishing year?	A copy of the amended Amendment 80 membership agreement or contract must be sent to NMFS in accordance with § 679.4(a)(4).
(xvi) What happens if the Amendment 80 cooperative exceeds its CQ amount?	An Amendment 80 cooperative is not authorized to catch Amendment 80 species or use crab PSC or halibut PSC in excess of the amount on its CQ permit. Exceeding a CQ permit is a violation of the regulations. Each member of the Amendment 80 cooperative is jointly and severally liable for any violations of the Amendment 80 Program regulations while fishing under the authority of a CQ permit. This liability extends to any persons who are hired to catch or receive CQ assigned to an Amendment 80 cooperative. Each member of an Amendment 80 cooperative is responsible for ensuring that all members of the cooperative comply with all regulations applicable to fishing under the Amendment 80 Program.
(xvii) Is there a limit on how much CQ an Amendment 80 cooperative may hold or use?	No, but each Amendment 80 QS holder is subject to use caps, and an Amendment 80 vessel may be subject to vessel use caps. See § 679.92(a).
(xviii) Is there a limit on how much CQ a vessel may catch? ....	Yes, an Amendment 80 vessel may not catch more than 20 percent of the aggregate Amendment 80 species ITAC assigned to the Amendment 80 sector for that calendar year. See § 679.92(a) for use cap provisions.
(xix) Are there any special reporting requirements? .....	Yes, the designated representative of the Amendment 80 cooperative must submit an annual Amendment 80 cooperative report as described under § 679.5(s). In addition, each member of an Amendment 80 cooperative must submit a timely and complete EDR as described under § 679.94.

(4) *Successors-in-interest.* If a member of an Amendment 80 cooperative dies (in the case of an individual) or dissolves (in the case of a business entity), the CQ derived from the Amendment 80 QS permits assigned to the Amendment 80 cooperative for that year from that person remains under the control of the Amendment 80 cooperative for the duration of that calendar year as specified in the Amendment 80 cooperative contract. Each Amendment 80 cooperative is free to establish its own internal

procedures for admitting a successor-in-interest during the fishing season due to the death or dissolution of an Amendment 80 cooperative member.

[72 FR 52726, Sept. 14, 2007, as amended at 74 FR 51518, Oct. 7, 2009; 76 FR 68357, Nov. 4, 2011]

### § 679.92 Amendment 80 Program use caps and sideboard limits.

(a) *Use caps*—(1) *General.* Use caps limit the amount of Amendment 80 QS units and Amendment 80 species CQ

that may be held or used by an Amendment 80 QS holder or Amendment 80 vessel. Use caps may not be exceeded unless the Amendment 80 QS holder or Amendment 80 vessel subject to the use cap is specifically allowed to exceed a cap according to the criteria established under this paragraph (a) or by an operation of law. There are two types of use caps: Person use caps and vessel use caps. All Amendment 80 QS unit use caps are based on the aggregate Amendment 80 species Amendment 80 initial QS pool set forth in Table 32 to this part. The use caps apply as follows:

(2) *Amendment 80 QS holder use cap—*(i) *QS and CQ use cap.* A person may not individually or collectively hold or use more than thirty (30.0) percent of the aggregate Amendment 80 QS units initially assigned to the Amendment 80 sector and resulting CQ unless that person receives those Amendment 80 QS units on an Amendment 80 permit(s) based on Amendment 80 legal landings assigned to Amendment 80 vessel(s) or Amendment 80 LLP license(s) held by that Amendment 80 QS holder:

(A) Prior to June 9, 2006; and

(B) At the time of application for Amendment 80 QS.

(ii) *CQ use cap calculation.* For purposes of calculating and applying the CQ use cap, a person is assigned CQ based on:

(A) The amount of CQ derived from the Amendment 80 QS units held by that person; and

(B) Any CQ assigned to that person in an Application for CQ transfer.

(iii) *Transfer limitations.* (A) An Amendment 80 QS holder that receives an initial allocation of aggregate Amendment 80 QS units that exceeds the use cap listed in paragraph (a)(2)(i) of this section cannot receive any Amendment 80 QS permit by transfer unless and until that person's holdings of aggregate Amendment 80 QS units are reduced to an amount below the use cap specified in paragraph (a)(2)(i) of this section.

(B) If an Amendment 80 QS holder that received an initial allocation of aggregate Amendment 80 QS units on his or her Amendment 80 QS permits that exceeds the use cap listed in para-

graph (a)(2)(i) of this section transfers an Amendment 80 QS permit to another person, the transferor may not hold more than the greater of either the amount of Amendment 80 QS units held by the transferor after the transfer if the amount of aggregate Amendment 80 QS units continues to exceed the use cap, or the amount equal to the Amendment 80 QS unit use cap established in paragraph (a)(2)(i) of this section.

(C) An Amendment 80 QS holder that receives an initial allocation of aggregate Amendment 80 QS units on his or her Amendment 80 QS permits that exceeds the use cap listed in paragraph (a)(2)(i) of this section is prohibited from having any CQ assigned to that Amendment 80 QS holder in an application for CQ transfer unless and until that Amendment 80 QS holder's holdings of aggregate Amendment 80 QS units are reduced to an amount below the use cap specified in paragraph (a)(2)(i) of this section.

(3) *ITAC use cap for an Amendment 80 vessel.* An Amendment 80 vessel may not be used to catch an amount of Amendment 80 species greater than twenty (20.0) percent of the aggregate Amendment 80 species ITACs assigned to the Amendment 80 sector. This amount includes ITAC that is assigned as CQ or to the Amendment 80 limited access fishery.

(b) *GOA sideboard limits—*(1) *GOA groundfish sideboard limits.* Amendment 80 vessels may not be used to catch more than the amounts of groundfish in the management areas specified in Table 37 to this part from January 1 through December 31 of each year, except that GOA groundfish sideboard limits specified in Table 37 to this part do not apply when an Amendment 80 vessel is using dredge gear while directed fishing for scallops in the GOA.

(2) *GOA halibut PSC sideboard limits.* All Amendment 80 vessels, other than the fishing vessel GOLDEN FLEECE as specified in paragraph (d) of this section, may not use halibut PSC in the fishery complexes, management areas, and seasons greater than the amounts specified in Table 38 to this part during January 1 through December 31 of each year; except that:

(i) An Amendment 80 vessel that uses halibut PSC CQ in the Central GOA subject to the regulations established in the Rockfish Program under subpart G to this part is not subject to the halibut PSC sideboard limits in Table 38 to this part while fishing under a Rockfish CQ permit; and

(ii) Halibut PSC sideboard limits in Table 38 to this part do not apply when an Amendment 80 vessel is using dredge gear while directed fishing for scallops in the GOA.

(c) *Sideboard restrictions applicable to Amendment 80 vessels directed fishing for flatfish in the GOA—(1) Originally Qualifying Amendment 80 Vessels.* An Amendment 80 vessel listed in column A of Table 39 to this part may be used to fish in the directed arrowtooth flounder, deep-water flatfish, flathead sole, rex sole, and shallow-water flatfish fisheries in the GOA and in adjacent waters open by the State of Alaska for which it adopts a Federal fishing season.

(2) *Amendment 80 Replacement Vessels.*

(i) Any vessel that NMFS approves to replace an Amendment 80 vessel listed in column A of Table 39 to this part may be used to fish in the directed arrowtooth flounder, deep-water flatfish, flathead sole, rex sole, and shallow-water flatfish fisheries in the GOA and in adjacent waters open by the State of Alaska for which it adopts a Federal fishing season.

(ii) Any vessel that NMFS subsequently approves to replace an Amendment 80 replacement vessel that replaced an Amendment 80 vessel listed in column A of Table 39 to this part may be used to fish in the directed arrowtooth flounder, deep-water flatfish, flathead sole, rex sole, and shallow-water flatfish fisheries in the GOA and in adjacent waters open by the State of Alaska for which it adopts a Federal fishing season.

(d) *Sideboard restrictions applicable to the fishing vessel GOLDEN FLEECE.* (1) The fishing vessel GOLDEN FLEECE (USCG documentation number 609951):

(i) May not be used for directed groundfish fishing for northern rockfish, pelagic shelf rockfish, pollock, Pacific cod, or Pacific ocean perch in the GOA and in adjacent waters open by

the State of Alaska for which it adopts a Federal fishing season; and

(ii) Is not subject to halibut PSC sideboard limits as described in paragraph (b)(2) of this section in the GOA or adjacent waters open by the State of Alaska for which it adopts a Federal fishing season.

(2) *Sideboard restrictions applicable to any vessel replacing the GOLDEN FLEECE.* (i) If the vessel replacing the GOLDEN FLEECE is of an LOA less than or equal to 124 ft. (38.1 m) (the MLOA of the LLP license that was originally assigned to the GOLDEN FLEECE, LLG 2524), then the sideboard provisions at § 679.92(c) and (d)(1) apply.

(ii) If the vessel replacing the GOLDEN FLEECE is greater than 124 ft. (38.1 m) (the MLOA of the LLP license that was originally assigned to the GOLDEN FLEECE, LLG 2524), then the sideboard provisions at § 679.92(b) and (c) apply.

(e) *Sideboard restrictions applicable to Amendment 80 vessel not assigned an Amendment 80 QS permit, Amendment 80 LLP license, or Amendment 80 LLP/QS license.* All Amendment 80 vessels not designated on:

(1) An Amendment 80 QS permit and an Amendment 80 LLP license; or

(2) An Amendment 80 LLP/QS license will be allocated a catch limit of 0 mt in the BSAI and GOA.

[72 FR 52726, Sept. 14, 2007, as amended at 77 FR 59871, Oct. 1, 2012]

#### **§ 679.93 Amendment 80 Program recordkeeping, permits, monitoring, and catch accounting.**

(a) *Recordkeeping and reporting.* See § 679.5(s).

(b) *Permits.* See § 679.4(o).

(c) *Catch monitoring requirements for Amendment 80 vessels and catcher/processors not listed in § 679.4(l)(2)(i) using trawl gear and fishing in the BSAI.* The requirements under paragraphs (c)(1) through (9) of this section apply to all Amendment 80 vessels except Amendment 80 vessels using dredge gear while directed fishing for scallops, and any other catcher/processor not listed in § 679.4(l)(2)(i) using trawl gear and fishing or receiving fish in the BSAI and in adjacent waters open by the State of Alaska for which it adopts a Federal fishing season. Except when using